

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2025 CHRT 20
Date: March 18, 2025
File No.: HR-DP-3056-24

Between:

C.D.

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canadian Armed Forces

Respondent

Ruling

Member: Jo-Anne Pickel

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I. OVERVIEW

[1] The following are my reasons for granting the Complainant's request to anonymize her identity in this proceeding.

[2] The Complainant is a transgender woman who worked for the Canadian Armed Forces, the Respondent. She alleges that the Respondent harassed her and discriminated against her contrary to the *Canadian Human Rights Act*, R.S.C., 1985, c. H-6 (the "Act"). She requested that her name and identity be anonymized in this proceeding as she has serious concerns about the potential negative impact on her if her name were to be linked publicly to the facts of this case.

[3] Both the Respondent and the Canadian Human Rights Commission (the "Commission") consent to the Complainant's request.

II. DECISION

[4] The motion is granted. The Complainant's name will be anonymized using the random initials C.D. to distinguish this case from other Tribunal cases that have used random initials such as A.B. or E.F.

III. ISSUE

[5] I must decide whether the Complainant has met the conditions for a confidentiality order set out in section 52 of the Act and the applicable case law.

IV. ANALYSIS

A. Issue 1. Should the Tribunal grant an order anonymizing the Complainant's identity?

[6] Yes. At the outset, I note that the consent of the parties in this case is not determinative. I must still be satisfied that the Complainant's anonymization request meets

one of the criteria set out in section 52 of the Act (*White v. Canadian Nuclear Laboratories Ltd.*, 2020 CHRT 5 at para 50).

[7] Human rights proceedings are intended to be public. However, the presumptive openness of Tribunal proceedings is not absolute. In certain cases, the Tribunal may take any measures or make any order necessary to ensure the confidentiality of the inquiry. One reason for doing so is if it is satisfied that there is a real and substantial risk that the disclosure of matters will cause undue hardship to the person involved. The Tribunal must also be satisfied that the need to prevent disclosure outweighs the societal interest in a public hearing (subsection 52(1)(c) of the Act).

[8] The Tribunal applies section 52 of the Act while also considering the generally consistent principles set out in the Supreme Court of Canada's decision in *Sherman Estate v. Donovan*, 2021 SCC 25 [*"Sherman Estate"*].

[9] For the reasons that follow, I am satisfied that the Complainant meets the test set out in subsection 52(1)(c) of the Act as informed by the principles set out in *Sherman Estate*.

(i) Real and substantial risk that the disclosure of C.D.'s identity will cause her undue hardship

[10] When applying subsection 52(1)(c) of the Act as informed by *Sherman Estate* in this case, I must consider whether there is a real and substantial risk that the disclosure of the Complainant's identity would cause her undue hardship, which also constitutes a serious risk to an important public interest.

[11] I am satisfied that the Complainant has met this first part of the analysis. The complaint argued that her being "outed" as a transgender person may put her at risk of serious harm and even violence. She added that the changing political climate makes it difficult to predict if that will improve in her lifetime. As noted by the Commission, the Tribunal has recognized on several occasions that a person's transgender identity carries a high level of stigma and that transgender individuals face a high risk of disadvantage, prejudice, and violence (see, for example, *A.B. et al v. Correctional Service of Canada*, 2022 CHRT 15 and *E.F. v. Correctional Service of Canada*, 2023 CHRT 15).

[12] As the Supreme Court held in *Sherman Estate*, there is an important public interest in privacy which is aimed at allowing individuals to preserve control over their core identity in the public sphere to the extent necessary to preserve their dignity (at para 85). In *Sherman Estate*, the Supreme Court provided examples of sensitive personal information that, if exposed, could give rise to a serious risk to an important public interest. Among the examples provided by the Court was a person's sexual orientation (at para 77).

[13] In my view, the Complainant's transgender status represents the kind of sensitive personal information that strikes at the heart of her dignity and personal safety. Therefore, there is a real and substantial risk that the disclosure of such personal information would cause her undue hardship within the meaning of subsection 52(1)(c) of the Act. Such a risk is substantially similar to the risk identified by the Supreme Court in *Sherman Estate*.

[14] For the above reasons, the Complainant has met the first part of the test under subsection 52 of the Act as informed by the principles set out in *Sherman Estate*.

(ii) The need to prevent disclosure outweighs the societal interest in a public hearing

[15] The serious personal risk to the Complainant described above outweighs the societal interest in knowing her identity. The anonymization agreed to by the parties is the least intrusive option available to protect the Complainant from the harm that could be caused to her from the disclosure of her transgender identity. The confidentiality order would only result in the anonymization of the Complainant's name in the public version of documents filed with the Tribunal and in Tribunal rulings and decisions. The Complainant has not sought the redaction of any other identifying information. Therefore, the rest of the information in these documents will remain public, as will the Tribunal hearing.

[16] For the reasons above, both parts of the test for a confidentiality order under subsection 52(1)(c) have been met. Therefore, I grant the confidentiality order set out below.

V. ORDER

[17] The Tribunal orders the following:

- a. The Complainant must be referred to as C.D. throughout these proceedings in any of the parties' written materials or oral submissions and in all Tribunal rulings and decisions;
- b. Within 30 days of the date of this ruling, each party must refile with the Tribunal anonymized versions of any previously filed documents, including Statements of Particulars or submissions. They must replace the Complainant's name with the random initials C.D.;
- c. The Registry will add the anonymized versions of any materials to the official record. The non-anonymized versions will be sealed by the Tribunal and not disclosed to the public;
- d. The Registry will ensure that any information requested from the Tribunal's official record complies with this ruling before it is disclosed.

Signed by

Jo-Anne Pickel
Tribunal Member

Ottawa, Ontario
March 18, 2025

Canadian Human Rights Tribunal

Parties of Record

File No.: HR-DP-3056-24

Style of Cause: C.D. v. Canadian Armed Forces

Ruling of the Tribunal Dated: March 18, 2025

Motion dealt with in writing without appearance of parties

Written representations by:

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Laure Prévost, for the Canadian Human Rights Commission

Sarah Pearson, for the Respondent